IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : October 27, 2006

Sucha Singh

....Appellant

versus

State of Punjab and others

....Respondents

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present : Mr. Vijay Rana, Advocate for the appellant

Virender Singh, J.

Vide impugned judgment of Judicial Magistrate Ist Class, Jalandhar dated 7.2.2006 Pal Singh respondent has been acquitted. Appellant-complainant Sucha Singh has preferred the instant appeal against the said judgment and an application under section 378(4) of the Code of Criminal Procedure (Crl. Misc. No. 461-MA of 2006), for the grant of special leave to appeal has also been filed.

It is worth mentioning that initially the complaint was filed

against the respondent and other co accused Joginder Singh and the then SHO Police Station Jasbir Singh. The aforesaid Joginder Singh died during the pendency of the complaint whereas SHO Jasbir Singh was not summoned by the trial court. Only respondent was charged under sections 452 and 323 IPC which, according to the learned trial court are not proved.

Since there is a delay of 14 days in filing the instant appeal, an application (Crl. Misc. No. 46711 of 2006) under section 5 of the Limitation Act has also been filed.

We have heard learned counsel for the appellant. With his assistance, we have gone through the entire judgment minutely.

For dislodging the complaint with regard to section 452 IPC, the learned trial court has observed that the respondent was also co-owner of the disputed property on the date of alleged occurrence and therefore, the appellant-complainant cannot be said to be in exclusive possession of the said property. For this reason, section 452 IPC is not attracted.

So far as the charge of section 323 IPC is concerned, the observation of the learned trial court is that as per the allegations contained in the complainant, Gurmit Kaur and Narinder Kaur had received injuries but Narinder Kaur had not stepped into witness box in support of the injuries suffered by her whereas Gurmit Kaur who was examined as one of the witnesses is also silent on this aspect. Similarly another alleged eye witness of the occurrence had also not uttered a single word regarding

alleged giving of beatings to Narinder Kaur and Gurmit Kaur. MLR of the aforesaid two injured were also not produced by the complainant. Therefore, it remained un-explained that if Gurmit Kaur and her daughter-in-law had received injuries at the hands of respondent and his co-accused. On the basis of the said observation, the learned trial court has held that no offence under section 323 IPC is made out.

Mr. Rana has not been able to pin point any infirmity with regard to the finding of the learned trial court on both the counts. We also do not find any demonstrable perversity in the same calling for our interference. Therefore, we are hesitant to grant special leave to appeal and dismiss Criminal Misc. No. 461-MA of 2006.

Since there is no substance in the appeal, Criminal Misc. No. 46711 of 2006 for condonation of delay is also dismissed.

(Virender Singh)
Judge

(A.N. Jindal)
Judge

October 27, 2006
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